

Notice of Allowability

Application No.

09/829,861

Examiner

Satya B Sastri

Applicant(s)

PENNINGS ET AL.

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed February 25, 2004.
2. ☒ The allowed claim(s) is/are 1-13, 15-29 and 43-46.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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DETAILED ACTION

1. This office action is in response to the amendment filed on February 25, 2004. With the cancellation of *claim 14* and nonelected *claims 30-42* and addition of new *claims 43-46, claims 1-13, 15-29, 43-46* are now pending in the application. In view of the amendment, rejection of *claims 1, 8, 14, 27 and 28* under 35 U.S.C. 102(b) as anticipated by Tahan (US 5,135,965) is moot, rejection of *claims 1, 3, 8, 14, 27, 28* under 35 U.S.C. 102(e) as anticipated by Makabe et al. (US 6,262,208 B1) is moot and rejection of *claims 1, 3, 4, 8, 12, 14, 27, 28* under 35 U.S.C. 102(b) as anticipated by Ofstead (US 4,840,992) is withdrawn.

EXAMINER'S AMENDMENT

2. The application has been amended as follows to correct minor typographical errors in the claims:

In line 1 of *claim 4*, replace "lest" by "least".

In line 3 of *claim 6*, replace "1:40." by "1.40."

Allowable Subject Matter

3. *Claims 1-13, 15-29, 43-46* are allowed.

4. The following is an examiner's statement of reasons for allowance:

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The present claims are allowable over the closest combined reference to Goldenberg (US 4,598,122) and Goldenberg et al. (US 5,210,111).

The present invention in regard to a hydrogel comprising a network of hydrophilic polymer having hydroxyl group-carrying carbon to carbon backbones and having a tensile strength of at least 1MPa, wherein the network is formed by crosslinks in the hydrophilic polymer (*claim 1*).

The disclosure of Goldenberg ('122) is in regard to polyoxirane-crosslinked polyvinyl alcohol hydrogel contact lens. These are derived from polyvinyl alcohol having a molecular weight of 8,000 (abstract). The breaking stress of the samples in this prior art in column 12 is lower than the claimed value of 1MPa.

The prior art to Goldenberg et al. ('111) discloses a crosslinked hydrogel derived from polyvinyl alcohol modified with an unsaturated isocyanate and further crosslinked under thermal or photopolymerization conditions. However, the prior art does not teach a tensile strength of at least 1 MPa as claimed in the instant invention.

Therefore, the instantly claimed invention is deemed allowable over the closest prior art of record as per said art neither anticipating nor rendering obvious the instantly claimed hydrogel comprising a network of hydrophilic polymer having hydroxyl group-carrying carbon to carbon backbones and having a tensile strength of at least 1MPa, wherein the network is formed by crosslinks in the hydrophilic polymer.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Satya Sastri at (571) 272-1112.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached at (571) 272-1114.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 308-0661.


SATYA SASTRI

March 17, 2004


DAVID W. WU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700